

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on June 12, 2003, and the references cited therewith.

No claims are amended, canceled, or are added; as a result, claims 1-15, 51-53 are now pending in this application.

§103 Rejection of the Claims

Claims 1, 3-6, 8-9, 11, 13-16, and 18 were rejected under 35 USC § 103(a) as being unpatentable over Kunitomo et al. (U.S. 6,235,572) in view of Summerfelt et al. (U.S. 5,622,893).

Independent claim 6 recites, among other elements, an insulator layer and a single conductive layer having "a compound formed from a first substance and a second substance", wherein the single conductive layer and *also* includes "a trace amount of the first substance".

Kunitomo et al. do not disclose a single conductive layer in which the single conductive layer includes "a compound formed from a first substance and a second substance" and *also* includes "a trace amount of the first substance".

Summerfelt et al. (column 3, lines 43-55), only use Ru as an example to define the term "oxygen stable". In the example, Summerfelt et al. mention that a layer of Ru which is chemically changed by becoming a partially or fully oxidized Ru can still be considered as the "oxygen stable" substance. Summerfelt et al. do not disclose a single conductive layer in which the single conductive layer includes "a compound formed from a first substance and a second substance" and *also* includes "a trace amount of the first substance".

The reasons presented above demonstrate that the Office Action fails to state a prima facie showing of obviousness because the Office Action provides no evidence of a reason to combine Kunitomo et al. and Summerfelt et al.

Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143. The Examiner must avoid hindsight. *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990).

Based on all of the reasons presented above, the Office Action fails to show that claim 6 is obvious over Kunitomo et al. and Summerfelt et al. Applicant requests that the rejection of claim 6 be reconsidered and withdrawn and that claim 6 be allowed.

Independent claims 1, 11, and 16 recite elements similar to the elements of claim 6. Thus, claims 1, 11, and 16 are also patentable over Kunitomo et al. and Summerfelt et al. for reasons similar to the reasons presented above regarding claim 6. Applicant requests that the rejection of claims 1, 11, and 16 be reconsidered and withdrawn and that claims 1, 11, and 16 and their dependent claims 3-5, 13-15, and 18 be allowed.

Claims 1-25 were rejected under 35 USC § 103(a) as being unpatentable over Lin et al. (U.S. 6,249,040) in view of Summerfelt et al. (U.S. 5,622,893).

Independent claim 6 recites, among other elements, an insulator layer and a single conductive layer having "a compound formed from a first substance and a second substance", wherein the single conductive layer and *also* includes "a trace amount of the first substance".

Lin et al. do not disclose a single conductive layer in which the single conductive layer includes "a compound formed from a first substance and a second substance" and *also* includes "a trace amount of the first substance".

As presented above, Summerfelt et al. also do not disclose a single conductive layer in which the single conductive layer includes "a compound formed from a first substance and a second substance" and *also* includes "a trace amount of the first substance". Summerfelt et al. (column 3, lines 43-55), only use Ru as an example to define the term "oxygen stable". In the example, Summerfelt et al. mention that a layer of Ru which is chemically changed by becoming a partially or fully oxidized Ru can still be considered as the "oxygen stable" substance.

The reasons presented above demonstrate that the Office Action fails to state a *prima facie* showing of obviousness because the Office Action provides no evidence of a reason to combine Lin et al. and Summerfelt et al.

Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143. The Examiner must avoid hindsight. *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990).

Based on all of the reasons presented above, the Office Action fails to show that claim 6 is obvious over Lin et al. and Summerfelt et al. Applicant requests that the rejection of claim 6 be reconsidered and withdrawn and that claim 6 be allowed.

Independent claims 1, 11, 16, 21, 22, 23, 24, and 25 recite elements similar to the elements of claim 6. Thus, claims 1, 11, 16, 21, 22, 23, 24, and 25 are also patentable over Lin et al. and Summerfelt et al. for reasons similar to the reasons presented above regarding claim 6. Applicant requests that the rejection of claims 1, 11, 16, 21, 22, 23, 24, and 25 be reconsidered and withdrawn and that claims 1, 11, and 16 and their dependent claims 2-5, 7-9, 12-15, and 17-20 be allowed.

Claim 51 was rejected under 35 USC § 103(a) as being unpatentable over Kunitomo et al. (U.S. 6,235,572) in view of Summerfelt et al. (U.S. 5,622,893) and further in view of Kotectki et al. (U.S. 6,262,450).

Claim 51 recites elements similar to the elements of claim 6. For example, claim 51 recites a single conductive layer having a "compound that includes a first substance and a second substance", wherein the compound includes a substantial amount of the second substance. Since claim 6 is patentable over Kunitomo et al. and Summerfelt et al. for the reasons presented above regarding claim 6, claim 51 is also patentable over Kunitomo et al. and Summerfelt et al. because claim 51 recites elements similar to the elements of claim 6. Kotectki et al. do not disclose a "compound that includes a first substance and a second substance", wherein the compound includes a substantial amount of the second substance. Thus, claim 51 is also patentable over the combination of Kunitomo et al., Summerfelt et al., and Kotectki et al. Accordingly, Applicant requests that the rejection of claim 51 be reconsidered and withdrawn and that claim 51 be allowed.

Claims 52 and 53 were rejected under 35 USC § 103(a) as being unpatentable over Cloud et al. (U.S. 5,815,427) in view of Kunitomo et al. (U.S. 6,235,572) and Summerfelt et al. (U.S. 5,622,893).

Claim 52 and 53 recite elements similar to the elements of claim 51. For example, claims 52 and 53 recite a single conductive layer having a "compound that includes a first substance and a second substance", wherein the compound includes a substantial amount of the second

substance. Cloud et al. do not disclose a “compound that includes a first substance and a second substance”, wherein the compound includes a substantial amount of the second substance.

Based on the reasons presented above regarding claim 51, claims 52 and 53 are patentable over Kunitomo et al., and Summerfelt et al. because claims 52 and 53 recites elements similar to the elements of claim 51. Since Cloud et al. do not disclose a “compound that includes a first substance and a second substance”, wherein the compound includes a substantial amount of the second substance, claims 52 and 53 are also patentable over the combination of Cloud et al., Kunitomo et al., and Summerfelt et al. Accordingly, Applicant requests that the rejection of claims 52 and 53 be reconsidered and withdrawn and that claims 52 and 53 be allowed.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant’s representative (612) 373-6969 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

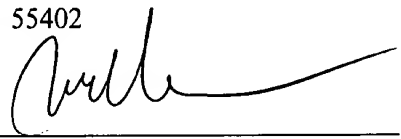
Respectfully submitted,

CEM BASCERI ET AL.

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